

Research Integrity Complaints Regulations Tilburg University

November 1, 2019

Considerations

- Tilburg University is run under the auspices of Stichting Katholieke Universiteit Brabant, registered in Tilburg.
- All those involved in research carried out at Tilburg University should act within the standards formulated by the Netherlands Code of Conduct for Scientific Integrity 2018 (referred to below as the "**Code of Conduct**"). Each researcher has a responsibility to carefully observe the standards of research integrity and good research practise and to promote compliance by others.
- The Code of Conduct lays down the guiding principles of good and honest academic practise and the resulting standards of good research practise for researchers, which Tilburg University also endorses and which apply to a university as guidelines as referred to in Section 1.7 of the Higher Education and Research Act ("**WHW**").
- The Executive Board of Tilburg University attaches great importance to the ability of those involved to report suspicions of violations of Research integrity. These Regulations are intended to lower that threshold.
- Anyone who suspects that research integrity has been violated may complain in confidence to the Complaints Officer on Research Integrity and submit the complaint to the Executive Board or the Research Integrity Committee. Tilburg University ensures a careful procedure for the assessment of the Complaint. For this purpose, the Executive Board has adopted the following Research Integrity Complaints Regulations Tilburg University ("**Complaints Regulations**"). These Complaints Regulations are an elaboration of Section 5.4 of the Code of Conduct.
- This is a translation of the Dutch version of the regulation. In case of a conflict between the English and Dutch version of the regulation, the Dutch version will prevail and will be binding.

§ 1 Definition

Article 1 - Definitions

Defined terms:

- a. **Respondent:** A Staff Member whose conduct is the subject of a Complaint or whose conduct is the subject of an investigation by the Committee at the request of the Executive Board.
- b. **Executive Board:** the Executive Board of Tilburg University.
- c. **Committee:** The Committee set up by the Executive Board to deal with complaints concerning breaches of Research Integrity.
- d. **Code of Conduct:** Netherlands Code of Conduct for Research Integrity 2018.

- e. **Complaint:** A written report regarding an alleged violation of Research Integrity committed by a Staff Member.
- f. **Complainant:** A person who submits a Complaint to the Executive Board.
- g. **LOWI:** National Agency for Academic Integrity.
- h. **Staff Member:** A person who is, or has been, employed by the institution or who is or has been otherwise employed under the responsibility of the institution; this also includes persons who are not employees, or only part-time employees, of the institution in so far as they participate in the institution's research or publish their research under the name or responsibility of the institution. A Staff Member is not a person who is only involved in a supporting role in the research.
- i. **Research Misconduct:** Act or omission that constitutes a research misconduct integrity within the meaning of paragraph 5.2 under A 1, 2, or 3 of the Code of Conduct.
- j. **School:** a faculty as referred to in the WHW of Tilburg University;
- k. **Board of Governors:** The Board of Governors of Stichting Katholieke Universiteit Brabant. The Board of Governors is responsible for supervising the Executive Board of the University as a whole and its management.
- l. **University:** Tilburg University.
- m. **Confidential Advisor:** The person appointed as Confidential Advisor on Research Integrity by the Executive Board.

§ 2 The Complaint

Article 2 General

1. Anyone has the right to submit a Complaint to the Executive Board, which will immediately forward the Complaint to the Committee. A Complaint may also be made directly to the Committee. A Complaint can only be submitted about an alleged Research Misconduct by a Staff Member. The Complaint must show sufficient evidential support for the Complainant to presume that research misconduct has been committed.
2. The Executive Board may, on the basis of its own suspicions or on the basis of signals it has received, even without a Complaint having been submitted, request the Committee in writing to investigate an alleged Research Misconduct. In that case, these Complaints Regulations will be applied by analogy as much as possible.
3. All parties must provide the Confidential Advisor or the Committee, within a reasonable time, with all cooperation that may be reasonably required for the exercise of their authority.

Article 3 Special situations

1. It is possible to submit a Complaint anonymously. Such a Complaint will only be dealt with if the Executive Board sees reason to do so because it is of the opinion that:
 - a. there are compelling public interests or compelling interests of the University or of those involved; and
 - b. the fact-finding can take place without the Complainant's contribution.
2. If and insofar as a Complaint relates to a member of the Executive Board, the Complaint may be submitted to the Board of Governors. In such a case, the Committee shall advise the Board of Governors and exercise the authority laid down in these Complaints Regulations with the

Executive Board. If and insofar as the Complaint relates to members of the Board of Governors, the Complaint may be submitted to the chair of the Board of Governors.

3. In the situation that the Complaint relates to someone who is, or has been, a Staff Member of several institutions that have endorsed to the Code of Conduct, and the Complaint could therefore be handled by several institutions, joint handling of the Complaint may take place and the institutions concerned may come to other agreements regarding the way in which the Complaint will be handled. A decision on the method of handling shall in that case be taken by the Executive Board. The Executive Board may request the other institution to cooperate with the Committee's investigation and may inform the other institution of the Committee's opinion and its subsequent (definitive) judgment on the Complaint.

§ 3 Confidential Advisor on Research Integrity

Article 4 Confidential Advisor

1. The University has a Confidential Advisor who can be contacted for questions and complaints on Research Integrity.
2. The Confidential Advisor is appointed by the Executive Board for a period of four years. The Executive Board may appoint more than one Confidential Advisor. Reappointment for a subsequent period of four years is possible.
3. The Confidential Advisor has an academic background, is of impeccable academic reputation and is able to deal well with contradictions and conflicts. The Confidential Advisor may not have an ancillary function that could interfere with their functioning as a Confidential Advisor.
4. Members of the Board of Governors, members of the Executive Board, deans and vice-deans of the faculties, members of the Research Integrity Committee, members of participation councils or Local Consultative Committees or members of internal ethics committees are not eligible for appointment.
5. The Executive Board may terminate the appointment prematurely:
 - a. at the Confidential Advisor's own request;
 - b. for no longer meeting the requirements for appointment;
 - c. for poor performance by the Confidential Advisor.

Article 5 Tasks of the Confidential Advisor

1. Anyone has the right to consult the Confidential Advisor in case of an alleged violation of Research Integrity.
2. The Confidential Advisor:
 - a. acts as an accessible point of contact for questions and complaints about Research Integrity.
 - b. tries to mediate or otherwise amicably resolve the Complaint if there seem to be possibilities to do so.
 - c. informs the Complainant about the procedure for submitting a Complaint to the Executive Board.
 - d. may not assist both the Complainant and the Respondent at the same time.
 - e. only acts on behalf of the Complainant or the Respondent with their consent.

Article 6 Reporting of activities

The Confidential Advisor reports on their activities in retrospect to the Executive Board in an annual report, which is to be included in the annual report of Tilburg University. The report describes in general terms the cases handled and the activities performed. In doing so, the reporting must not be traceable to persons.

§ 4 Research Integrity Committee

Article 7 Appointment and composition of the Research Integrity Committee

1. The University has a Committee in charge of dealing with a Complaint concerning the alleged violation of Research Integrity.
2. The Committee is appointed by the Executive Board and consists of a chair and at least two other members. Preferably at least one of them is a lawyer. The Committee may consist of more than three members. In that case, when handling a Complaint, the chair of the Committee may, in consultation with the secretary, appoint two members of the Committee who, together with the chair, will handle the Complaint.
3. The chair and the members are appointed by the Executive Board for a period of four years. Reappointment for a subsequent period of four years is possible.
4. The chair or member of the Committee has an academic background, is of impeccable academic reputation and is able to deal well with contradictions and conflicts. The chair or member of the Committee may not have any ancillary function which may hinder his or her functioning as chair or member.
5. Members of the Board of Governors, members of the Executive Board, deans and vice-deans of the faculties, the Confidential Advisor, members of employee participation councils or Local Consultation or members of internal ethics committees are not eligible for appointment.
6. The Executive Board may terminate the appointment prematurely
 - a. at the request of the chair or member of the Committee;
 - b. for no longer meeting the requirements for appointment;
 - c. on account of poor performance by the chair or member of the Committee.
7. The appointment shall be made with a view to ensuring a balanced representation of academic fields.
8. Members of the Committee who are in any way involved with the persons or facts to which a Complaint relates or who otherwise have an interest in the handling and outcome of the Complaint shall refrain from any involvement in the handling of the Complaint.
9. The Committee may temporarily include experts or ad hoc members, whether or not associated with the University, for the investigation of a particular Complaint.
10. Unless the third paragraph of Article 3 applies, a Complaint will be dealt with by the chair of the Committee and two other members, possibly supplemented by one or more experts to be appointed by the Executive Board - at the request of the Committee - other than the external experts referred to in Article 8, third paragraph.
11. The Committee shall be assisted officially by a secretary.

Article 8 Role and competence

1. The Committee investigates complaints and assesses whether research integrity has been infringed and, if so, to what standard(s) and to what extent, issues advice on the matter and provides an opinion on the merits of the Complaint.
2. The Committee is authorised to obtain information from all Staff Members and bodies of the University. It may require access to, or request copies of, any documentation, data and results of the study and any correspondence which it considers relevant to its investigation and, if necessary, to safeguard it.
3. The Committee may consult external experts, whether or not attached to the University. The consultation shall be the subject of a report. Those concerned shall be informed of the identity of the experts or third parties consulted.
4. The Committee may request a representative of the Executive Board to attend any hearings and ask that representative to provide information on the standards and guidelines applicable within the University.
5. The Committee shall submit its opinion to the Executive Board.

Article 9 Receipt and decision on substantive handling of a Complaint

1. Upon receipt of the Complaint, the Committee will inform the Complainant and the Respondent in writing within two weeks that it has received the Complaint, of the content of the Complaint, and of the procedure to be followed.
2. The Committee assesses whether on the basis of the following requirements it can deal with a Complaint:
 - i. the Complaint contains a clear description of the alleged research misconduct by one or more Staff Members and is accompanied by the relevant written documents or other means of evidence;
 - ii. the Complaint is dated and states the Complainant's name, position and contact details.
This requirement does not apply if Article 3(1) applies.
3. If the Complaint is incomplete, the Committee shall give the Complainant the opportunity to supplement the Complaint within a period set by the Committee. The period referred to in Article 9(6) shall then be extended by the period referred to in the previous sentence or the period during which the supplement was provided.
4. The Committee is authorised to advise the Executive Board that a Complaint does not qualify for consideration in terms of content if:
 - i. an excessive period of time has elapsed since the suspected violation or if the complainant has waited an unreasonably long time before filing the complaint. As such, a period of ten years applies in principle;
 - ii. the Complaint has already been investigated by the Committee or a similar committee;
 - iii. The Complainant has violated the duty of confidentiality as laid down in Article 17, third paragraph.
5. The Committee may also advise the Executive Board that a Complaint does not qualify for substantive treatment if, on the basis of a marginal substantive assessment of the Complaint, it already reaches the opinion that the actions of the Respondent cannot lead to the finding of a violation of research integrity because the Complaint:
 - i. is manifestly unfounded;
 - ii. is manifestly of insufficient interest;

- iii. concerns a purely professional difference of opinion and/or is solely based on an employment dispute;
- iv. is or has been subject to the judgment of a civil, administrative, or criminal court.
6. The Committee will advise the Executive Board within four weeks if it is of the opinion that the Complaint does not qualify for substantive consideration.
7. The Executive Board will then decide as quickly as possible whether not to deal substantively with a Complaint and will send its decision to the Complainant and the Respondent. If it decides not to deal with the substance, this qualifies as an initial judgment referred to in Article 15.
8. If paragraph 6 does not apply, the Committee shall deal with the substance of the Complaint. In all cases the Respondent is presumed innocent until proven guilty.

Article 10 Substantive handling of a Complaint

1. If and insofar as the Committee considers that a Complaint is to be dealt with substantively, it will inform the Complainant and the Respondent accordingly and inform them of the procedure for dealing with it.
2. The Committee will examine whether there are other interested parties besides the Complainant and the Respondent who should be involved in the proceedings.
3. The Committee shall hear all parties involved in the Complaint. It will give the Complainant and Respondent the opportunity to be heard.
4. The hearing of the persons involved shall take place in each other's presence, unless there are compelling reasons to hear them separately. In that case, each of them will be informed of what has been disclosed outside his or her presence during the hearing.
5. A written report is made of the hearing, including a summary of what was said. The report may be sent to those concerned, giving them the opportunity to inform the Committee within a specified period of time whether, and if so, what, factual inaccuracies they consider to be contained in the report. On this basis, the chair may determine that the report shall be amended.
6. The Committee may make audio recordings of the hearing. These are intended solely as an aid to the preparation of the report. After the Executive Board has given its definitive verdict, the recordings will be destroyed. No one other than the Committee may take photographs, film or sound recordings during a hearing without the consent of the Committee.
7. During the hearing, the Complainant and the Respondent may be assisted or represented by an authorized representative.
8. If the Committee considers that this is necessary for the handling of the Complaint, it may decide to hear witnesses and experts or to ask experts for a written expert's report.
9. Hearings and other sessions of the Committee shall not be public.
10. Within ten weeks of receipt of the Complaint, the Committee shall deliver an opinion on the merits of the Complaint. The Committee may decide, in the interests of due diligence, to extend this period by a reasonable period of time. The extension shall be notified in writing to the Complainant and the Respondent.

Article 11 Content of opinion after consideration of substance

1. After substantive consideration, the Committee shall send a report of its findings and an accompanying opinion on the merits of the Complaint to the Executive Board.

2. The Committee may issue the following opinions:
 - a. that the Complaint is unfounded and therefore does not constitute a violation of Research Integrity;
 - b. that the Complaint is well-founded and that there has been a violation of research integrity as referred to in paragraph 5.2.A of the Code of Conduct, and to what extent;
 - c. that the Complaint is well-founded in the sense that it concerns questionable behaviour or a minor shortcoming as referred to in paragraph 5.2.B of the Code of Conduct;
 - d. any sanctions and/or measures to be imposed by the Executive Board.
3. The Committee will use the weighting criteria set out in paragraph 5.2.C of the Code of Conduct.
4. The Committee has the option of making recommendations of a general nature in response to a Complaint and the substantive handling of that Complaint, whether or not at the request of the Executive Board. These recommendations are addressed to the Executive Board.

Article 12 Careful treatment and confidentiality

1. All relevant information gathered by the Committee will be made available to both the Complainant and the Respondent for careful consideration.
2. The Committee may decide not to disclose information to the Complainant and/or the Respondent if there are compelling reasons for not doing so. The Committee shall record these compelling reasons and report on this decision and the reasons to the Executive Board.
3. If and to the extent that the Complainant or Respondent has stipulated in the draft (or associated data management plan) of the underlying investigation to which the Complaint relates that research information or data cannot be made available to the public and has established valid reasons for this, the Committee may, at the request of the Complainant, Respondent or other parties directly involved, decide that (parts of) the research information or data should be excluded from the information to be disseminated by the Committee and the wording of its opinion.
4. If and insofar as the Complainant or the Respondent has stipulated in the draft (or associated data management plan) of the underlying investigation to which the Complaint relates that, in the case of an investigation into an alleged Research Misconduct, all research information and data are only available for inspection under the confidentiality conditions laid down by the Executive Board, the Committee will observe these confidentiality conditions with regard to:
 - i. inspection by the chair, committee members and the secretary of the relevant investigation information or data;
 - ii. the dissemination of information in the context of dealing with the Complaint; and,
 - iii. the wording of its opinion.
5. In the unlikely event that the draft does not provide for agreements on the limiting of public availability of research information and data, the Committee may determine - provided there are valid reasons¹ to do so - that, in the interests of confidentiality, it would be unreasonable for parts of the academic research and related data to be available to the public, and these shall be regarded as confidential and shall then decide in accordance with the confidentiality conditions to be applied in the fourth paragraph.

¹ Valid reasons, including confidentiality, are identified in: European Council, Council conclusions: The transition towards an Open Science system, paragraph 14 (Brussels, 27/05/2016, 9526/16, via: data.consilium.europa.eu/doc/document/ST-9526-2016-INIT/en/pdf).

Article 13 Detailed procedure

1. The Committee may set out its working methods in more detail and further elaborate on these Complaints Regulations by, for example, regulating the manner of hearing, the involvement of experts and the formation of committees.
2. Insofar as the Committee's working method is not set out in these Complaints Regulations or the further working method, the chair is authorised to determine the working method.

Article 14 Report of activities

The Committee reports on its activities to the Executive Board in an annual report for the University's annual report. The report shall describe in general terms the cases handled and the activities performed. In doing so, the reporting must not be traceable to persons.

§ 5 Initial judgment Executive Board and opinion LOWI

Article 15 Initial judgment of the Executive Board

1. The Executive Board shall adopt its initial judgment as soon as possible, but in any event within four weeks of receipt of the Committee's judgment. The Executive Board shall immediately inform the Complainant and the Respondent thereof in writing. The Committee's opinion shall be forwarded with the initial assessment. If the judgment of the Executive Board deviates from the Committee's opinion, the judgment shall state the reason for the deviation.
2. The Executive Board may make the following initial assessments:
 - a. that the Complaint is unfounded and therefore does not constitute a violation of Research Integrity;
 - b. that the Complaint is well-founded and that there has been a violation of research integrity as referred to in paragraph 5.2.A of the Code of Conduct, and to what extent;
 - c. that the Complaint is well-founded in the sense that it concerns questionable behaviour or a minor shortcoming as referred to in paragraph 5.2.B of the Code of Conduct;
3. The Executive Board has the authority to impose sanctions and/or take measures.
4. The Executive Board will have regard to the weighting criteria referred to in Section 5.4.C of the Code of Conduct if and insofar as it makes an initial finding of a Research Misconduct, questionable research practices and/or minor shortcomings.

Article 16 Opinion LOWI

1. The Complainant and the Respondent may request the LOWI - after receipt of the initial assessment and having regard to the time limit and working method arising from the LOWI regulations in force - to issue an opinion on the initial judgment.
2. If the opinion of the LOWI has not been requested within the period referred to in the first paragraph, the Executive Board will adopt its definitive judgment on the Complaint.
3. If a recommendation from the LOWI is requested, the Executive Board will take it into account in its definitive assessment.
4. The definitive judgment of the Executive Board, together with the opinion of the Committee, will be published in anonymized form on the VSNU website after the completion of the procedure.

§ 6 Other provisions

Article 17 Confidentiality

1. The Confidential Advisor is obliged to maintain confidentiality regarding what they have learned in such capacity. This may be deviated from only with the express consent of the Complainant and the Respondent.
2. The members of the Committee, the Secretary, any witnesses interviewed, and experts consulted are required to treat in confidence any information that has come to their knowledge in such respective capacities. This may be deviated from only with the express consent of the Complainant and the Respondent.
3. The Complainant, the Respondent and anyone else involved in the handling of a Complaint will be required to maintain the confidentiality of all information that has come to their knowledge in connection with the Complaint or the proceedings, unless the use of such information is directly necessary for the handling of the Complaint and the performance of their duties at the University. This duty of confidentiality also applies after the proceedings have been concluded, with the exception of the anonymized representation of matters in annual reports or on the website of Tilburg University or the VSNU. If the duty of confidentiality is violated, the Committee or the Executive Board may impose appropriate consequences.
4. The Committee draw up out a more detailed protocol for the consultation of external experts or the application of confidentiality conditions.

Article 18 Protection of data subjects

The Executive Board ensures that the rights of the Complainant and the Respondent are protected and that the Complainant and Respondent do not suffer undue disadvantage in their career prospects or otherwise. The same applies to any other interested parties, witnesses, experts, the confidential advisers, the committee members or the secretary.

Article 19 Unforeseen cases

In cases not provided for in these Complaints Regulations, the Executive Board shall decide.

Article 20 Entry into force and publication

These Complaints Regulations will come into effect on 1 November 2019 and will replace the Tilburg University Research Integrity Complaints Regulations of 2 October 2012 with effect from the same date.

These Complaints Regulations will be published on the website of Tilburg University.
